



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 22, 1995

Mr. Therold I. Farmer
Law Offices of Walsh, Anderson, Underwood,
Schulze & Aldridge, P.C.
6300 La Calma, Suite 200
Austin, Texas 78752

OR95-821

Dear Mr. Farmer:

On behalf of the Comal Independent School District (Comal ISD), you have asked this office to determine whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34200.

The Comal ISD received an open records request for videotapes made on a school bus on which a specific student had ridden since February. The district has a number of mini videotapes made by a videocamera installed on the school bus in question. You have submitted representative samples of tapes, which have been reproduced onto a standard videocassette.

You state that the videotapes are excepted from disclosure by section 552.026 of the Government Code, which excepts education records from disclosure, unless released in conformity with the Family Educational Rights and Privacy Act of 1974 ("FERPA"), title 20 of the United States Code, section 1232g. FERPA provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases identifying information in a minor student's records without parental consent.¹ 20 U.S.C. § 1232g(b)(1).

¹FERPA does not prohibit the release of directory information under title 20 of the United States Code section 1232g(b)(1). See 20 U.S.C. § 1232g(a)(5)(A) (directory information includes student's names, addresses, and telephone numbers). However, the requestor here does not seek general directory information which would provide information about all students but rather information about a few individual students. Open Records Decision No. 332 (1982) at 3 (information must be withheld to extent necessary to avoid identifying students or parents).

"Education records" are records that contain information directly related to a student and that are maintained by an educational agency or institution. *Id.* § 1232g(a)(4)(A). Information which would serve to identify the student or his parents is excepted from disclosure. Open Records Decision No. 332 (1982) at 3. The videotapes you submitted show the faces, bodies, and behavior of students of the district.

We agree that the videotapes of students on a school bus are excepted from disclosure as education records under FERPA. Students who appear on the tape could be identified by a viewer. We note that the bus driver addresses some students by name, and that students' faces appear clearly on the tape. See Attorney General Opinion JM-36 (1983); Open Records Decision No. 224 (1979) (identification of students from handwriting). Accordingly, you must withhold the videotapes from disclosure pursuant to the Open Records Act.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/RHS/rho

Ref.: ID# 34200

Enclosures: Submitted videotapes

cc: Mr. Norman C. Dean
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(w/o enclosures)